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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re Aria L. et al., Persons
Coming Under the Juvenile
Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

A.L.,

Defendant and Appellant.

B302900

(Los Angeles County
Super. Ct. No.
19LJJP00046A,B)

APPEAL from an order of the Superior Court of
Los Angeles County, Steven E. Ipson, Commissioner. Affirmed.

Jesse McGowan, under appointment by the Court of
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kim Nemoy, Acting Assistant County Counsel, and Stephen D. Watson, Deputy County Counsel, for Plaintiff and Respondent.

Mother appeals from a disposition order maintaining her two young children dependents of the juvenile court. She challenges the related case plan and its requirement that she undergo mental health counseling and a psychological assessment. We affirm the order. Statutory references are to the Welfare and Institutions Code.

I

The Los Angeles County Department of Children and Family Services filed its first dependency petition on behalf of Mother's children in January 2019. The children were one and two at the time. The petition sought to detain the children due to Mother's alleged marijuana abuse and due to a domestic violence incident between Mother and her then boyfriend. We refer to this man as Mother's ex-boyfriend.

The petition included allegations against the children's father. We skip these allegations, as they are irrelevant to this appeal.

The juvenile court sustained some but not all allegations against Mother and declared the children dependents in April 2019. The court expressed concern about Mother's marijuana use. But it ultimately released the children back to Mother under the Department's supervision, stating the court "believe[d] the mother can manage the situation appropriately with court supervision. That's up to her to do it."

As part of the case plan, the court ordered Mother to undergo drug tests and to participate in a parenting education

program, a domestic violence program, and individual counseling. The court also ordered the ex-boyfriend was to have no contact with Mother's children.

Over the summer of 2019, the Department continued to check on Mother and her children. Mother continued to use marijuana and, as she concedes, "largely failed to meet her case plan requirements." She was terminated from her parenting class due to missing too many sessions and being dishonest about her absences. She took months to enroll in a domestic violence support group, felt she did not need the therapy, and claimed she was rejected from one group because she would not concede she was a victim. She never enrolled in individual counseling because she believed she did not need it.

Mother tested positive for marijuana on every drug test she took. She missed her other tests. Mother felt she did not need to test.

At one point, Mother reported she "restarted" taking depression medication *and felt better*. She also tried to schedule an appointment for mental health services but failed to follow through. Mother later maintained she had been diagnosed with an anxiety disorder, not depression, and her anxiety arose from the dependency case, having to attend classes, and needing to pay rent.

But then Mother stopped taking her anxiety medication, saying she did not like the side effects and felt she did not need it. Mother also denied having any mental health issues. And she turned to self-medicating with marijuana.

The social worker expressed concern Mother was not complying with her case plan. Mother responded by shrugging her shoulders, rolling her eyes, and denying she needed services.

Mother agreed to drug test right away, and then she failed to show up to the scheduled test.

On one of its visits to Mother's apartment, the Department found several marijuana plants. Mother lied about when she would dispose of the plants and then lied about the plants being gone. The plants remained on Mother's balcony for days, seemingly within the children's reach.

In October 2019, the Department filed a supplemental petition under section 387, asserting the earlier disposition was ineffective in protecting the children because Mother failed to comply with her case plan, continued to test positive for marijuana, and violated the court's orders by allowing the ex-boyfriend access to the children. Simultaneously, the Department filed a subsequent petition under section 342, asserting Mother posed a risk of harm to the children because she kept marijuana plants within their access and because she had a history of mental and emotional problems and failed to take prescribed medication.

At the disposition hearing, the parties argued over what appeared to be a recent photograph of the ex-boyfriend with Mother's daughter at a pool party. Mother testified the photograph was old and the children's father was framing her. She also tried to explain her failure to participate in the court-ordered counseling and other services. Mother admitted that if a mental health assessment were part of her case plan, she would have done it.

The court did not find Mother's testimony credible. It sustained the section 387 petition and the count involving the marijuana plants in the section 342 petition. But it dismissed

the mental health count due to insufficient information about Mother's mental health status.

The court again declared the children dependents and removed them from Mother's custody. It adopted a new case plan ordering Mother, among other things, to participate in mental health counseling and to undergo a psychological assessment.

Mother's counsel objected to the assessment as untethered to any sustained allegation and further objected to "any deviations from the previous case plan." Mother then appealed, arguing the court abused its discretion in ordering the assessment and the mental health counseling.

As explained below, there was no abuse of discretion.

II

Once a child becomes a dependent of the juvenile court, the court may make reasonable orders to further the care and support of the child. (§ 362, subd. (a).) The court has broad discretion in fashioning a disposition order for the child's well-being. (*In re Corrine W.* (2009) 45 Cal.4th 522, 532.) We reverse such orders only where there is a clear abuse of discretion. (*Ibid.*; *In re Natalie A.* (2015) 243 Cal.App.4th 178, 186.)

Any program ordered for a parent should be tailored to the family and should aim to eliminate the conditions that led to the dependency. (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1006 (*In re Christopher*); § 362, subd. (d); see also Cal. Rules of Court, rule 5.565(e)(2) [procedures governing disposition hearings apply to the determination of further dispositional issues arising from supplemental and subsequent petitions].) In determining an appropriate program, the sustained petition is a guide not a shackle. The court may consider the evidence as a whole and craft a plan to address parental deficiencies that hinder the

reunification process, even if such deficiencies are not detailed in the sustained petition. (*In re Briana V.* (2015) 236 Cal.App.4th 297, 311 (*In re Briana*); *In re Christopher*, at p. 1008.)

Mother argues the juvenile court abused its discretion in ordering mental health counseling and a psychological assessment because there was no evidence any mental health issues were a “significant problem” in her life, impeded her ability to reunify with her kids, or had anything to do with her admitted failure to participate in court-ordered services. She claims there was no basis for this part of the case plan once the court dismissed the mental health allegation. Mother’s arguments are mistaken.

The juvenile court acted within its discretion by ordering mental health services for Mother. The Department repeatedly warned Mother her marijuana use and other destructive behavior posed a risk to her family. Mother was in denial. She remained in denial after the first disposition hearing and seemingly began to spiral: despite being under court supervision, she brought marijuana plants into her home and delayed disposing of them, repeatedly tested positive for marijuana, missed her other drug tests, failed to participate in court-ordered services, maintained she did not need such services, and may have defied the court’s orders regarding keeping the ex-boyfriend away from her children. The first disposition order was ineffective.

After issuing that order, the court also learned—by Mother’s admission—that Mother had been diagnosed with anxiety and might suffer from depression. She had been prescribed medication but, after some initial success, discontinued it and turned to self-medicating with marijuana. Mother was sabotaging her chances of reuniting with her

children. She lacked insight. The court's order was tailored to address this deficiency and her spiraling behavior. The conclusion Mother's mental health might be affecting her ability to safely reunify with her children and comply with her case plan was reasonable.

Citing *In re J.P.* (2017) 14 Cal.App.5th 616, Mother argues the court improperly endorsed a reunification plan that is "doomed to fail." *In re J.P.* is inapposite. The juvenile court in that case abused its discretion by ordering a Burmese-speaking father to complete an alcohol treatment program even though there was no program in his language and no language assistance was provided. The father thus could not comply with the order due to his language barrier. (*Id.* at pp. 624–630.) That is not the case here.

Mother draws on *In re Jasmin C.* (2003) 106 Cal.App.4th 177 in claiming her case plan is "nearly impossible." But Mother is in a different situation than the mother in *In re Jasmin C.*: as a result of the *father's* transgressions, that mother found herself having to raise three minors and an 18 year old on her own and attend court-ordered parenting classes. (*Id.* at pp. 179–180.) Nothing in the record justified the parenting-class condition. Quite the opposite, the judge apparently imposed the condition on the archaic assumption the mother could not effectively parent on her own without them. (*Id.* at pp. 181–182.) *In re Jasmin C.* is no support for reversing the case plan here, particularly given Mother's children are no longer in her custody.

In re Sergio C. (1999) 70 Cal.App.4th 957 and *In re Basilio T.* (1992) 4 Cal.App.4th 155, cited by Mother, are unhelpful. There was "no factual basis" for the court-ordered drug tests in *In re Sergio C.*; the testing was imposed on the father "based solely

on the unsworn and uncorroborated allegation of an admitted drug addict [mother] who has abandoned her children,” and the father denied using drugs. (*In re Sergio C.*, at pp. 958, 960.) And in *In re Basilio T.*, the juvenile court ordered substance abuse therapy where there was no evidence the parents had a substance abuse problem; the order was based on a social worker’s concern about the mother’s somewhat unusual behavior and some comments she made about an invention of hers. (*In re Basilio T.*, at pp. 164, 172.) This was an insufficient basis for the order, particularly given the mother’s offer of proof there was an actual invention with money-making potential. (*Ibid.*)

Here, the court-ordered services were based, at least in part, on mother’s admissions regarding her need for mental health interventions. There is an evidentiary basis for the case plan. (Cf. *In re Briana*, *supra*, 236 Cal.App.4th at pp. 307, 311–312 [while no evidence supported sexual abuse allegations against father, order requiring sexual abuse counseling had evidentiary basis because father indisputably was a registered sex offender and violated probation conditions regarding contact with minors]; *In re Christopher*, *supra*, 50 Cal.App.4th at pp. 1005, 1007–1008 [order for alcohol or drug testing was proper, even though substance abuse allegation stricken from petition, where father had multiple arrests for driving under the influence and had tested positive for methamphetamine].)

Mother’s counsel concedes, “To be sure, something was keeping mother from meeting her case plan requirements” Counsel theorizes it was obstinance. We cannot say the juvenile court abused its discretion in suspecting Mother’s difficulties were tied to unaddressed mental health issues and in adopting a case plan with mental health components.

Mother needed tools that would enable her to change her behavior and take the reunification process seriously. On this record, the juvenile court reasonably concluded mental health counseling and a psychological assessment were necessary to eliminate the conditions that led to the children's dependency status, to help Mother get back on track to reunification, and to advance the children's best interests. (See § 362, subd. (d).)

DISPOSITION

We affirm.

WILEY, J.

We concur:

GRIMES, Acting P. J.

STRATTON, J.